

HCS HB 465 -- CREDIT UNIONS

(Vetoed by the Governor)

This bill changes the laws regarding the Division of Credit Unions within the Department of Insurance, Financial Institutions and Professional Registration. In its main provisions, the bill:

(1) Requires the division director to be appointed by the Governor;

(2) Requires the division director and each employee, before entering upon the discharge of his or her duties, to take an oath that he or she will not reveal any facts, conditions, or affairs of any credit union that he or she may have knowledge of by virtue of his or her official position unless required to do so by law in the discharge of the duties of his or her office or when testifying in any court proceeding;

(3) Prohibits the division director and any division employee who participates in the examination of a credit union or who may be called upon to make an official determination, other than as a member of the Credit Union Commission, from being an officer or director of any credit union regulated by the division or from receiving any payment or gratuity from any of these credit unions, negotiating loans for others, or being indebted to any state-chartered credit union;

(4) Authorizes the division director to compel the production of documents and the attendance of and administer oaths to any person having knowledge of any issue involved with an examination or investigation. The division director may seek judicial enforcement of an administrative subpoena by application to the appropriate court which will be subject to the same defenses or subject to a protective order or conditions as deemed appropriate by the court in accordance with Missouri Supreme Court rules. All information must be held in confidence absent a court's finding of compelling reasons for disclosure except in specified circumstances;

(5) Prohibits a state-chartered credit union, its director, or any of its officers or employees from being charged with libel, slander, or defamation for any good faith communications with the division director or any division employee;

(6) Allows the division director to serve a written notice to an individual of his or her intention to remove the person from office when it appears that the person while conducting the affairs of a credit union has committed a violation of any law or regulation or a cease and desist order; has violated any

agreement or condition imposed in writing by the division director; has engaged in any unsafe or unsound practice; or has committed or engaged in an act, omission, or practice which constitutes a breach of his or her fiduciary duty to the credit union or a crime involving dishonesty or breach of trust. If the division director finds it necessary to protect any credit union or its members, he or she can serve written notice on the person to suspend or prohibit him or her from participating in any manner in the conduct of the affairs of the credit union or from any other credit union supervised by the division director unless the division director gives written consent allowing for participation in another credit union;

(7) Requires the notice of intention to remove a person from or to prohibit his or her participation in a credit union to contain a statement of the facts constituting the grounds for removal or prohibition and the time and place of the hearing regarding the notice. Within 10 days of the suspension or prohibition from participation in the conduct of the affairs of a credit union, the person can apply for a stay of the suspension or prohibition with the circuit court of the county in which the credit union is located or the circuit court of Cole County pending the completion of the administrative proceedings under the notice served upon the person;

(8) Specifies that if at any time there are not enough members to constitute a quorum because of the suspension of one or more members of any board of directors, the remaining members will be vested with the powers or functions of the board until there is a quorum. If all directors have been suspended, the division director will appoint temporary directors;

(9) Removes the provision which prohibits a credit union from issuing a loan to a director or a credit or supervisory committee member of the credit union in excess of \$25,000 for certain specified purposes;

(10) Removes provisions regarding the required amount of reserve funds of a credit union and instead requires all credit unions to establish and maintain sufficient reserves to qualify for and maintain federal share insurance and to meet any requirements concerning minimum reserves established by a regulation of the division director; and

(11) Requires a credit union that is merging to mail or deliver a notice of the meeting to vote upon the merger to each member between 14 and 30 days prior to the meeting. All members must be given the opportunity to vote on the merger or consolidation plan at the meeting or without attending the meeting by written or electronic ballot. Currently, notice must be given as provided

in the credit union's bylaws or by a letter to the shareholders. These same procedures will apply when a state-chartered credit union votes to convert to a federal credit union.